

Performance Guarantee

Clifford Villa to: Gail.Wurtzler, Robert.Lawrence, craig.trueblood
Cc: SHimmelh, Darrell.Early

11/13/2009 11:31 AM

Gail, all - Do you remember where we are on this? It is listed in the CD as Appendix E. At the moment, it is the only appendix I'm still missing.

As for attachments to the SOW, just waiting on final RADs for the Wallace Yard. I know Sara is working on that presently.

Cliff Villa
Assistant Regional Counsel
U.S. EPA Region 10

----- Forwarded by Clifford Villa/R10/USEPA/US on 11/13/2009 11:26 AM -----



"Wurtzler, Gail"
<Gail.Wurtzler@dgslaw.com>
08/03/2009 09:49 AM

To Clifford Villa/R10/USEPA/US@EPA
cc <Darrell.Early@deq.idaho.gov>,
<craig.trueblood@klgates.com>, "Lietz, Denise"
<denise.lietz@klgates.com>, "Lawrence, Robert"
<Robert.Lawrence@dgslaw.com>,
<Sarah.Himmelhoch@usdoj.gov>
Subject Wallace Yard and Spur Lines Site - Preparing final documents

CONFIDENTIAL SETTLEMENT COMMUNICATION
SUBJECT TO FRE 408

Cliff,

This morning I received a request through UPRR from Deloitte Touche, UPRR's independent CPA, regarding a correction in terminology for the independent CPA letter for financial assurance. I was told that auditing is done under Public Company Accounting Oversight Board standards, not US GAAP. US GAAP applies to reporting, not auditing. For that reason, Deloitte would like to change the language in numbered paragraph 1 in the CPA letter as shown on the attached PDF. Please let me know as soon as possible whether that change will be permitted.

Also, Bob and I have read your late Friday email (although not yet the attachments) and noted that it did not include the final version of the RAD Drawings on the list of items to include in the signature package. Those drawings also need to be included in the signature package. As we have all discussed many times, it is essential that we have a complete package with all components of the settlement to present to UPRR management for final approval and signature.

Bob and I will communicate further after we review the attachments to your email. You should anticipate that we will have comments on the environmental covenant exhibit. In order to comply with Section XI of the CD, the parties need to do more than add EPA to Idaho's form.

Thanks.

Gail Wurtzler
Davis Graham & Stubbs LLP
1550 Seventeenth Street
Suite 500
Denver, CO 80202
(303) 892-7405
gail.wurtzler@dgsllaw.com



letter.pdf